

Gouvernement du Québec

O.C. 1217-99, 3 November 1999

An Act respecting administrative justice
(R.S.Q., c. J-3)

**Administrative Tribunal of Québec
— Rules of procedure**

Rules of procedure of the Administrative Tribunal of Québec

WHEREAS under section 109 of the Act respecting administrative justice (R.S.Q., c. J-3), the Administrative Tribunal of Québec may, by a regulation adopted by a majority of its members, make rules of procedure specifying the manner in which the rules established by Chapter VI of the Act or in the special Acts under which proceedings are brought are to be applied;

WHEREAS under that section, such rules of procedure may differ according to the divisions or, in the case of the social affairs division, according to the matters to which they apply;

WHEREAS under that section, the regulation is made after consultation with the Conseil de la justice administrative and upon approval by the Government;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Rules of procedure of the Administrative Tribunal of Québec were published in the *Gazette officielle du Québec* of 27 January 1999, with a notice that they could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS in accordance with section 109 of the Act, the Conseil de la justice administrative has been consulted;

WHEREAS the Tribunal adopted the Rules of procedure of the Administrative Tribunal of Québec with amendments at its meeting of 18 June 1999;

WHEREAS it is expedient to approve the Rules;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice:

THAT the Rules of procedure of the Administrative Tribunal of Québec, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

Rules of procedure of the Administrative Tribunal of Québec

An Act respecting administrative justice
(R.S.Q., c. J-3, s. 109)

1. These Rules apply to all proceedings brought before the Tribunal, except those within the jurisdiction of the social affairs division acting as a review board within the meaning of the Criminal Code.

2. The secretariat of the Tribunal is open to the public from Monday to Friday, on juridical days, from 8:30 a.m. to 4:30 p.m.

3. The following are non-judicial days:

- (1) Saturdays and Sundays;
- (2) 1 and 2 January;
- (3) Good Friday;
- (4) Easter Monday;
- (5) the Monday preceding 25 May;
- (6) 24 June;
- (7) 1 July;
- (8) the first Monday in September;
- (9) the second Monday in October;
- (10) 24, 25, 26 and 31 December;
- (11) any other holiday fixed by the Government.

4. If the date fixed for performing an act falls on a non-judicial day, it may validly be done on the next following juridical day.

5. In computing any time period, the day which marks the start of the period is not counted and, except for periods counted in clear days, the terminal day is.

Non-judicial days are counted but a period that would normally expire on such a day shall be extended to the next following juridical day.

6. The motion instituting the proceeding and the required documents and notices shall be filed with the Tribunal as follows:

(1) in person, with the secretariat of the Tribunal or, in the case of the motion instituting the proceeding, with any office of the Court of Québec;

(2) by mail, addressed to the secretariat of the Tribunal;

(3) by fax, with the secretariat of the Tribunal; or

(4) by electronic mail, if available, addressed to the secretariat of the Tribunal.

7. The date of filing of a document is the date on which it is received at the secretariat of the Tribunal or at the office of the Court of Québec, as the case may be.

8. Where the motion instituting the proceeding is received by electronic mail, the secretariat of the Tribunal shall print it out, indicating on it the date of receipt. A copy thereof shall be sent to the applicant as an acknowledgment of the application's receipt and confirmation of its content, together with a notice informing him that he is responsible for making any corrections in writing, within the time indicated.

9. Where duties, fees or other expenses are established for filing a document, the document is not validly filed unless these have been paid.

However, in the case of the motion instituting proceedings, an applicant who has not fully paid the prescribed duties, fees or expenses in full may do so within 30 days following the receipt of the motion by the Tribunal.

10. A motion instituting proceedings shall be presented in writing on the form provided by the Tribunal or otherwise.

The motion shall

(1) indicate the applicant's name and address, telephone number and, where applicable, E-mail address and fax number;

(2) indicate, if the applicant is represented, the representative's name and address, telephone number and, where applicable, E-mail address and fax number;

(3) briefly state the grounds invoked in support of the recourse; and

(4) mention the conclusions sought.

The contested decision or the documents related to the facts giving rise to the recourse shall be attached to the motion. Failing that, the motion shall indicate

(1) if the recourse is to contest a decision:

(a) the authority that made the decision;

(b) the date of the decision;

(c) the file number given by that authority;

(2) if no decision is contested, the facts giving rise to the recourse.

The motion shall be signed by the applicant or the representative.

11. Any other application to the Tribunal shall be presented in writing and notice thereof shall be sent to the other parties.

The application shall indicate the names of the parties, the file number of the Tribunal, the grounds invoked in support thereof and the conclusions sought.

If the applicant is not one of the parties, the application shall indicate the applicant's name, address, telephone number and, where applicable, E-mail address and fax number. If the applicant is represented, the application shall also contain the same information for the representative.

The application shall be signed by the applicant or the representative.

An application may be presented orally if authorized by the Tribunal.

12. Any other written communication from a party to the Tribunal shall be sent by the party to the other parties.

13. Any party or representative shall inform the secretariat of the Tribunal without delay of any change in address or telephone number.

14. Where a general plan of the immovables to be expropriated is filed with the Tribunal pursuant to section 39 of the Expropriation Act (R.S.Q., c. E-24), an appendix indicating the cadastre number of each immovable involved, the nature of the expropriated right and the name of the last known holder of that right shall be attached to the plan.

Every related notice of expropriation filed after the general plan shall bear the file number of that plan.

15. The documents relevant to a contestation in matters of municipal taxation, a copy of which must be provided under the second paragraph of section 114 of the Act respecting administrative justice (R.S.Q., c. J-3), are, in addition to the application for review and the assessor's proposal or decision, the documents that are submitted to him on the occasion of that review and those to which his proposal or decision refers, as well as any assessor's certificate issued since the filing of the motion instituting the proceeding.

16. Any person who has a sufficient interest may, with the authorization of the Tribunal and on the conditions it determines, make representations in a proceeding before the decision on the proceeding is rendered.

For any proceeding brought pursuant to the Environment Quality Act (R.S.Q., c. Q-2), any person making representations shall file with the Tribunal a notice to that effect at least 30 days before the date of the hearing.

17. Any party to a recourse may, with the authorization of the Tribunal and on the conditions it determines, implead a third party whose presence is necessary to resolve the dispute completely.

The Tribunal may, *ex officio*, order the impleading of any person whose interests could be affected by its decision.

18. A notice of hearing, in order to be valid, must be sent to a party at the last address filed of record.

The notice shall also be sent to the party's representative at his last address.

19. A party requesting postponement of the hearing shall apply to the Tribunal as soon as the invoked grounds become known.

Such postponement shall be granted only if it is based on serious grounds and if the interests of justice are thus better served. No postponement shall be granted solely because the parties agree thereto.

20. A party who discharges or replaces his representative shall so inform the Tribunal and the other parties in writing without delay.

21. A person who agrees to represent a party after the motion is filed shall so inform the Tribunal and the other parties in writing without delay.

22. A person who ceases to represent a party shall so inform the Tribunal and all parties in writing without delay.

23. Where a party is represented, the communications of the Tribunal, except the notice of hearing and the Tribunal's decision, shall be addressed to the representative only.

24. A party who requires that a witness be summoned to appear, to testify about what he knows, to produce a document or both, shall complete the subpoena.

Such party is responsible for the service of the subpoena issued by a member of the Tribunal at least five clear days before the hearing, or at least ten clear days before the hearing if the subpoena is addressed to a Minister or a Deputy Minister of the Government.

In case of emergency, a member of the Tribunal may shorten the period for service of a subpoena, but it may not be less than 12 hours. The Tribunal member shall mention it on the subpoena.

A person serving a prison term may be summoned to appear only if a member of the Tribunal orders the warden or guard, as the case may be, to bring him before the court.

25. Any person testifying as a witness shall do so under oath.

A witness who does not understand the nature of the oath is exempted from taking it, but must be informed of the obligation to tell the truth.

26. A party who intends to adduce an expert's report as evidence shall file two copies with the secretariat of the Tribunal and send one copy to the other parties on the date fixed by the Tribunal or, failing that, at least 15 days before the date of the hearing, unless the Tribunal decides otherwise.

27. In cases involving persons who require protection because they could endanger themselves or others, the institution having custody of such a person shall provide the Tribunal with copies of the order for custody in an institution, including any renewals, and of the psychiatric examination reports on the basis of which the order was issued, no later than 24 hours before the date of the hearing.

28. For proceedings within the jurisdiction of the immovable property division, unless the Tribunal decides otherwise, an expert witness shall be heard only if,

on the date fixed by the Tribunal or, failing that, no later than 15 days before the date of the hearing, the party who intends to have him testify has filed with the secretariat of the Tribunal three copies of the expert's report, with a copy for each other party, and has informed the other parties of such filing at the same time.

Such party may obtain a copy from the secretary of the Tribunal if he has already filed his expert's report or a statement to the effect that he does not intend to call any expert witness.

In the case of a proceeding brought pursuant to Chapter X of the Act respecting municipal taxation (R.S.Q., c. F-2.1), where the value is lower than that fixed in accordance with section 33 of the Act respecting administrative justice, an expert witness may be heard without his report having been previously filed.

29. A party who produces documents at the hearing shall make a sufficient number of copies for the Tribunal and all the other parties.

30. All persons attending the hearing shall behave with dignity and respect towards justice. They shall refrain from doing anything that could disrupt the hearing.

31. Representations made at the hearing shall be recorded on audio tape, unless a party has them recorded by a stenographer or stenotypist at its expense.

A party who requests a transcription of the hearing shall provide a copy to the Tribunal free of charge.

In the cases where the Tribunal may award costs, the recording and transcription expenses shall be included in them.

32. The minutes of the hearing shall be drawn up in the form established by the Tribunal. They shall contain the following information, in particular:

(1) the date and time of the beginning and end of the hearing, and where it takes place;

(2) the names of the members of the Tribunal;

(3) the names and addresses of the parties and, where applicable, those of their representatives and witnesses;

(4) the name and address of the person responsible for the recording;

(5) the name and address of the stenographer and proof of oath;

(6) the name and address of the interpreter and proof of oath;

(7) whether a telephone conference was held and the parties' consent thereto;

(8) the various stages of the hearing;

(9) the exhibits adduced;

(10) incidental proceedings and objections;

(11) the date when an act or action must be carried out;

(12) the Tribunal's decisions; and

(13) the date on which the case is taken under advisement.

33. Unless otherwise provided for by law, the filing of a discontinuance declaration or of a notice of settlement terminates the proceedings.

In matters of expropriation, the parties shall then file with the secretariat of the Tribunal a document indicating that an agreement has been reached, the date of the agreement and the detailed amount of the indemnity for the immovables and movables, rights of way, damages and expert's fees or, in the absence of a written agreement, if the expropriated right has been transferred, a copy of the notarial deed evidencing the transfer. If the expropriating party has acquired the immovable expropriated for failure to pay the taxes, a copy of the sale contract entered into with the municipality shall be filed.

34. A written agreement reached by the parties to settle their dispute may be submitted to the Tribunal for approval.

35. The Tribunal's decision shall be forwarded to the parties and their representatives.

36. These Rules come into force on the 45th day following the date of their publication in the *Gazette officielle du Québec*, except section 31, which will come into force on 1 July 2000.

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